

### **REMARKS**

Applicants reply to the Office Action mailed on May 1, 2007, within the statutory three month period for reply. Claims 1-17 and 19-22 were pending and the Examiner rejects claims 1-17 and 19-22. Applicants cancel claims 4, 8, 15 and 22 without prejudice to filing one or more claims having similar subject matter. Applicants add new claims 23-29.

Applicants add new claims 21-26. Support for the amendments and new claims may be found in the originally-filed specification, claims, and figures. No new matter has been introduced by these amendments and new claims. For example, claims 24-27 are supported in the specification at, for example, paragraphs [00164] -[00237] and claims 28-29 are supported in the specification at, for example, [00246] – [00248]. Reconsideration of this application is respectfully requested.

Applicants respectfully assert that the subject matter of the various claims was commonly owned at the time the inventions covered therein were made and therefore, Applicants have complied with 37 C.F.R. § 1.56.

The Examiner rejects claims 1-17 and 19-22 under 35 U.S.C. §103(a) as being unpatentable over various combinations of Li, U.S. Pub. No. 2002/0153424 (“Li”), Saito, U.S. Pub. 2005/0240778 (“Saito”), Hoshino, U.S. Patent No. 6,636,620 (“Hoshino”), Hohle et al, U.S. Pat. No. 6,101,477 (“Hohle”), Baer, U.S. Pub No. 2005/0232471 (“Baer”), Jensen et al, U.S. Pub. No. 2005/0165684 (“Jensen”), Burchette, Jr., and U.S. Pub. No. 2003/0106935 (“Burchette”). Applicants respectfully traverse these rejections.

While certain features of the presently claimed invention may be found in the numerous cited references, Applicants assert that the presently claimed invention improves upon any possible general combination of such references. For example, it would not be obvious to simply combine the teachings of the cited references because the presently claimed invention allows selective access to certain file structures based on different biometrics. Using the systems of the cited references, the cardholder would not be able to conveniently enable access to either or both file structures, and only certain information in such file structures. In contrast, the presently claimed invention allows the user to provide different biometrics which enable access to only certain information.

Applicants also assert that the presently claimed invention is significantly different in that each biometric sample from the same user accesses a different file structure, wherein each file structure includes different accounts and different information. In other words, using a thumb print as the proffered biometric sample may result in access to an American Express charge card account, using a retina scan as the proffered biometric sample may result in access to a Bank of America debit card

account, and using a voice print as the proffered biometric sample may result in access to a PayPal account. The use of different biometrics in this way may allow, for example, a portion of a single transaction by a single consumer to be charged to an American Express charge card account, a portion to be charged to a Bank of America debit card account and a portion to be charged to a PayPal account.

Accordingly, Applicants assert that neither of the cited references, alone or in combination disclose or suggest at least accessing select file structures within a smart card using "a first proffered biometric sample and a second proffered biometric" in order to facilitate a transaction, as similarly recited in amended independent claim 1.

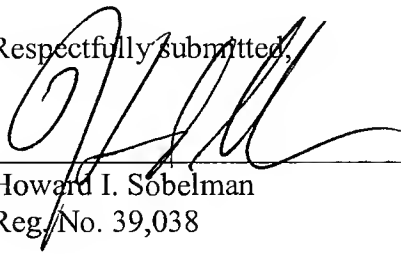
Claims 2-3, 5-7, 9-14, 16-17 and 19-21 variously depend from independent claim 1, so Applicants assert that claims 2-3, 5-7, 9-14, 16-17 and 19-21 are differentiated from the cited references for at least the reasons set forth above, in addition to their own respective features.

Moreover, new claims 23-29 depend from independent claim 1, so claims 23-29 are differentiated from the cited references for the same reasons as set forth above, in addition to their own respective features. For example, along with the many other elements of claim 1 which are not disclosed by Hohle 6,199,762, new claim 24 significantly improves upon Hohle by the verification device activating the update logic system upon verification of said first proffered biometric sample and said second biometric sample, wherein the biometric samples are different types of samples from the same person.

Applicants respectfully submit that the pending claims are in condition for allowance. Reconsideration of the application is thus requested. **The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 19-2814.** Applicants invite the Examiner to telephone the undersigned if the Examiner has any questions regarding this Reply or the application in general.

Respectfully submitted,

By:

  
Howard I. Sobelman  
Reg. No. 39,038

Dated: July 6, 2007

**SNELL & WILMER L.L.P.**  
400 East Van Buren  
One Arizona Center  
Phoenix, Arizona 85004-2202  
Telephone: (602) 382-6228  
Facsimile: (602) 382-6070  
E-mail: [hsobelman@swlaw.com](mailto:hsobelman@swlaw.com)